

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

VARREL E. MITCHELL,

Plaintiff,

**No. 9:06-cv-00186
(GLS/DEP)**

v.

**VINCENT IGOE, Albany County Sheriff's
Deputy, et al.,**

Defendants.

APPEARANCES:

OF COUNSEL:

FOR THE PLAINTIFF:

Varrel E. Mitchell
Pro Se
03-A-4497
Livingston Correctional Facility
P.O. Box 49
Rt. 36, Sonyea Road
Sonyea, NY 14556

FOR DEFENDANT IGOE:

Office of Robert P. Roche
36 South Pearl Street
Albany, NY 12207

ROBERT P. ROCHE, ESQ.

FOR REMAINING DEFENDANTS:

HON. ANDREW CUOMO
New York Attorney General

STEPHEN M. KERWIN, ESQ.
Assistant Attorney General

615 Erie Boulevard West
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Syracuse, NY 13204-2455

Gary L. Sharpe
U.S. District Judge

MEMORANDUM-DECISION AND ORDER

I. Introduction

The above-captioned matter comes to this court following a Report-Recommendation and Order (R&R) by Magistrate Judge David E. Peebles, filed April 28, 2009. (Dkt. No. 57.) The R&R¹ recommended that (1) defendants' motions for summary judgment be granted; (2) Mitchell's complaint be dismissed in its entirety; and (3) Mitchell's cross-motions for summary judgment be denied. Pending are Mitchell's objections to the R&R. (Dkt. No. 58.) For the reasons that follow, the R&R is adopted in its entirety.

II. Background

Varrel E. Mitchell, an inmate at the Coxsackie Correctional Facility, brings this action pursuant to 42 U.S.C. § 1983, alleging that defendants violated his constitutional rights by (1) disseminating details of his

¹ The Clerk is directed to append the R&R to this decision, and familiarity therewith is presumed.

conviction to DOCS employees and inmates within the Coxsackie facility² and (2) interfering with Mitchell's access to the courts by depriving him of the court file stemming from his Albany County conviction. (See generally Compl., Dkt. No. 1; see also R&R at 7, Dkt. No. 57.) Defendants moved for summary judgment arguing *inter alia* that Mitchell's complaint contained conclusory allegations which lacked factual support and must be dismissed. (See Dkt. Nos. 44, 45.) Mitchell filed a response and cross-motions for summary judgment against both sets of defendants. (See Dkt. Nos. 51, 52.)

On April 28, 2009, Judge Peebles recommended dismissal of Mitchell's complaint. The court will now review the R&R and the objections raised by Mitchell.

III. Standard of Review

Before entering final judgment, this court routinely reviews all report-recommendations in cases it has referred to a magistrate judge. If a party has objected to specific elements of the magistrate judge's findings and

² Mitchell claims that as a result of defendants' alleged disclosure, he experienced recrimination, and faced a danger of assault and abuse from fellow inmates. He therefore argues that defendants' disclosure amounts to a violation of defendants' Eighth Amendment obligation to protect him from harm. (See R&R at 23, Dkt. No. 57.)

recommendations, this court reviews those findings and recommendations de novo. See *Almonte v. N.Y. State Div. of Parole*, No. 04-cv-484, 2006 WL 149049, at *6-7 (N.D.N.Y. Jan. 18, 2006). In those cases where no party has filed an objection, or only a vague or general objection has been filed, this court reviews the magistrate judge's findings and recommendations for clear error. See *id.*

IV. Discussion

In recommending dismissal of each of Mitchell's claims, Judge Peebles pointed to an overall lack of evidence to support Mitchell's conclusory allegations. (See R&R at 26-28, 32-34, 35, Dkt. No. 57.) Mitchell's objections to the R&R, which are voluminous and difficult to comprehend, are general and vague in nature. They are essentially an attempt by Mitchell to reargue his case and contradict the R&R by repeating the same type of conclusory allegations asserted in his complaint. (See generally Objections, Dkt. No. 58.) Interpreted generously, his objections appear to be that Judge Peebles failed to properly weigh the evidence and failed to treat Mitchell's claims individually. (See, e.g., *id.* at ¶¶ 58, 75, 76, 91, 92, 96.) These objections are without merit. Thus, upon review of each portion of the R&R for clear error, the

court finds no error and adopts Judge Peebles' recommendations in their entirety.

WHEREFORE, for the foregoing reasons, it is hereby
ORDERED that Magistrate Judge Peebles' July 10, 2009 Report-Recommendation and Order is adopted in its entirety, whereby:

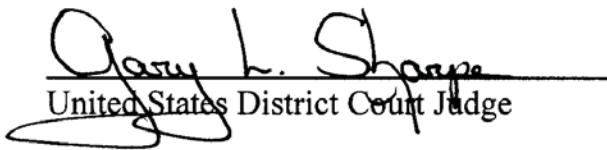
1. Defendants' motions for summary judgment are granted;
2. Mitchell's complaint is dismissed in its entirety; and
3. Mitchell's cross-motions for summary judgment are denied; and it

is further

ORDERED that the Clerk provide copies of this Memorandum-Decision and Order to the parties.

IT IS SO ORDERED.

Albany, New York
September 24, 2009



United States District Court Judge